

REMARKS

This paper is submitted in response to the Final Office Action mailed on February 24, 2005. Claims 1-20 remain in the application. Applicants respectfully traverse the rejection of the submitted claims and requests reconsideration and allowance of claims 1-20 in light of the following arguments.

Telephonic Interview

Applicants' counsel appreciates the courtesy extended by Examiner during the telephonic interview conducted on July 6, 2005. During that interview, differences between the claimed invention and the teachings of the prior art of record were discussed to overcome the outstanding rejections. While Examiner indicated that he understood our arguments and understood how we believe the claimed invention defines over the prior art of record, Examiner indicated that he did not have the authority to make any agreements as to overcoming the outstanding rejections. Examiner recommended, however, that we file an After Final Response outlining the arguments presented in the telephonic interview. Examiner indicated that he would consider these arguments with his supervisor.

In particular, as discussed during the telephonic interview, independent claims 1 and 13 recite a carton having a convenience feature formed therein and a film that over wraps the carton. It was pointed out that the convenience feature is formed in the carton and not in the film that over wraps the carton. Claims 1 and 13 further recite that the film includes a score proximate the convenience feature so that a user may

access the convenience feature in the carton through the film. The score cannot be placed at any arbitrary location on the film, but must be in proximity to the convenience feature in the carton so as to be accessible through the score.

In regard to how claims 1 and 13 defined over the prior art, it was discussed that Bernard clearly does not teach or suggest a formed carton having any convenience features and therefore Bernard also does not teach or suggest scoring the plastic sheet so as to access any convenience feature on the carton. The handle referred to in Bernard is formed in the plastic sheet, not the carton. It was further pointed out that while Killy clearly shows a carton having a convenience feature, there is no teaching or suggestion of over-wrapping the carton with a plastic sheet. Based on this, Applicants previously argued that the Office Action failed to establish a prima facie case of obviousness as there is no motivation to combine these references. Applicants maintain that view. In Bernard, there is no teaching, suggestion or inference for including a carton having convenience features beneath the plastic sheet, and in Killy, there is no teaching, suggestion or inference for including a plastic sheet over the carton.

In regard to Littmann, it was discussed that while Littmann generally discloses forming a score in a plastic sheet, there is no teaching, suggestion or inference to have a carton with a convenience feature inside the plastic sheet material. Moreover, and as thoroughly discussed during the interview, there is no teaching, suggestion or motivation in Littmann, or the other two references relied upon, to form a score line in the plastic sheet material proximate to a convenience feature in the carton so that a user can access the convenience feature in the carton through the sheet

material. Both Independent claims 1 and 13 specifically recite scoring the film proximate the convenience feature on the carton so that a user may access the convenience feature through the film. Again, the Office Action identifies no teaching in the art that would suggest the modification that is argued as obvious. Based on this, Applicants previously argued that the Office Action failed to establish a prima facie case of obviousness as there is no motivation to combine the Littmann reference with that of Bernard and Killy. Applicants again maintain that view.

Applicants also previously argued that the rejection of the claims were improper because the Office Action used impermissible hindsight reconstruction to arrive at the claimed invention. Although not specifically addressed during the interview, Applicants maintain that argument for purposes of appeal.

For the reasons stated above, independent claims 1 and 13 should be allowable. Moreover, as claims 2-12 and 14-20 depend from allowable independent claims 1 and 13, respectively, and further as each of these claims recite a combination of elements not taught or suggested by the prior art of record, Applicants submit that these claims are allowable as well.

CONCLUSION

In view of the foregoing response, this application is submitted to be in complete condition for allowance and early notice to this effect is earnestly solicited. If there is any issue that remains which may be resolved by telephone conference, the Examiner is invited to contact the undersigned in order to resolve the same and expedite the allowance of this application.

Applicants are of the opinion that an additional fee of \$ 225.00 is due as a result of a two-month extension. Please apply this charge and any additional charges or credits necessary to complete this communication to Deposit Account No. 23-3000.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.

By: Steven W. Benintendi
Steven W. Benintendi, Ph.D., Reg. No. 56,297

2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202
(513) 241-2324 (voice)
(513) 241-6234 (facsimile)
K:\RWZ\771Response_OA_FINAL.wpd